

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
JANUARY 7, 2016**

REGULAR SESSION

* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the meeting to order at 6:30 p.m.

* **INVOCATION** - Assistant Pastor Ken Brown, Fountain Hills Presbyterian Church

* **ROLL CALL** - Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Councilmember Cecil Yates, Councilmember Dennis Brown, Councilmember Cassie Hansen, Councilmember Alan Magazine and Vice Mayor Henry Leger. Town Manager Grady Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present at the meeting.

Councilmember Nick DePorter was not present at the meeting.

* **MAYOR'S REPORT**

i) None.

* **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

i) **MAYOR KAVANAGH MAY REVIEW RECENT EVENTS ATTENDED RELATING TO ECONOMIC DEVELOPMENT**

Mayor Kavanagh advised that the Maricopa Association of Governments' Economic Development Committee (EDC) meeting centered on expanding business connections with Mexico, Canada and now Toulouse, France. The EDC Committee was approached several months ago by a representative of the Toulouse Metropole region about establishing a connection with the Phoenix-metro area. A video conference was held in November with Vice Mayor Jean-Claude Dardelet, resulting in the goal of identifying potential industry sectors and areas for further engagement, including aerospace and aeronautics, healthcare, bioscience, pharmaceuticals, education and high-tech industries. The Maricopa Association of Governments (MAG) is pleased to be able to expand Arizona's connection with yet another country for the benefit of Arizona businesses and schools.

ii) **RECOGNITION OF RETIRING COMMUNITY SERVICES ADVISORY BOARD COMMISSIONERS GEOFFREY HARPER, NANCY BLUMENSTEIN, DANNY TANCREDI AND DONNA YORDY.**

Town Manager Grady Miller advised that residents in the community contribute significantly to the operation of government by serving on the various commissions and advisory boards. He noted that these particular Community Services Advisory Board Commissioners have come to the end of their terms and have done a great job contributing to the community. He said that one of the Commissioners, Nancy Blumenstein, is present this evening and asked her to come forward at this time.

Mayor Kavanagh advised that Nancy Blumenstein began serving on the Advisory Commission in August of 2014 and contributed her time and considerable talents. During her tenure, she served on the Programs Work Group and contributed innovative thoughts to whatever issues the Commissioners were addressing. She thanked Nancy for her concern for the wants and needs of the Fountain Hills' Community. (Nancy also served on the Senior Services Advisory Commission for two terms.) The Mayor presented Ms. Blumenstein with a Certificate of Appreciation for her hard work and willingness to serve the community.

Mayor Kavanagh thanked Donna Yordy began serving on the Commission in August of 2014 and contributed her time and considerable talents to the Commission. She added that during Donna's tenure on the Commission, she served on

the Parks/Facilities Work Group and contributed innovative thoughts to whatever issues the Commissioners were addressing. She thanked Donna for her concern for the wants and needs of the Fountain Hills' community. (Donna also served on the Community Center Advisory Commission for two terms.)

Mayor Kavanagh said that Danny Tancredi began serving on the Commission in August of 2014 and contributed his time and considerable talents to the Commission. She pointed out that during his tenure on the Commission he served on the Budget/CIP Work Group and contributed innovative thoughts to whatever issues the Commissioners were addressing. She thanked Danny for his concern for the wants and needs of the Fountain Hills' Community. (Danny also served on the Parks and Recreation Commission for two terms.)

Mayor Kavanagh thanked all of the Commissioners for all of the time that they put in and she and the members of the Council and audience gave them all a round of applause.

iii) **RECOGNITION OF THE TOWN'S 14TH CONSECUTIVE GOVERNMENT FINANCE OFFICERS ASSOCIATION DISTINGUISHED BUDGET PRESENTATION AWARD PRESENTED TO THE TOWN OF FOUNTAIN HILLS FOR FISCAL YEAR BEGINNING JULY 1, 2015, AS WELL AS THE CERTIFICATE OF RECOGNITION FOR THE BUDGET PRESENTATION TO THE FINANCE DIRECTOR CRAIG RUDOLPHY.**

Town Manager Grady Miller addressed the Council relative to this agenda item and said that it is a great honor for the Town to be recognized in this area, particularly since this is the 14th consecutive year in a row that this honor has been bestowed upon Fountain Hills. He provided brief history regarding this award, which was established in 1984 to encourage local governments to prepare budget documents of the highest quality that reflect both the guidelines established by the National Advisory Council on State & Local Budgeting as well as the GFOA (Government Finance Officers' Association's) Best Practices in Budgeting. He noted that the award recognizes individual governments that succeed in achieving that goal. He added that the resulting award was a team effort and commented on the long hours and hard work that was done by Finance Director Craig Rudolphy and Accountant Beata Bogdan. He said that Mr. Rudolphy also received a Certificate of Recognition for his role in achieving the Distinguished Budget Presentation Award. He asked the Mayor, Council and members of the audience to join him in congratulating Craig and Beata on this significant accomplishment (they were given a round of applause by everyone in the Chambers).

The Mayor asked Mr. Rudolphy and Ms. Bogdan to come forward at this time.

Mr. Rudolphy advised that he will accept the award on behalf of all of the Town staff whose work made the award possible and acknowledged the significant contribution of Town Accountant Beata Bogdan for her help in preparing this because it would not have happened without her.

Mayor Kavanagh presented Mr. Rudolphy and Ms. Bogdan with the award and thanked them for their excellent work.

CALL TO THE PUBLIC

None.

CONSENT AGENDA

AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM DECEMBER 17, 2015.

AGENDA ITEM #2 - CONSIDERATION OF APPROVING THE FIRST AMENDMENT TO THE COOPERATIVE PURCHASING AGREEMENT WITH VINCOM ENGINEERING CONSTRUCTION, LLC, IN THE AMOUNT OF \$30,000.00, BRINGING THE CUMULATIVE TOTAL TO \$45,973.00 AND EXTENDING THE CONTRACT DATE TO NOVEMBER 30, 2016 FOR CONCRETE REPLACEMENT AND REPAIR.

AGENDA ITEM #3 - CONSIDERATION OF APPROVING RESOLUTION 2016-02, ABANDONING WHATEVER RIGHT, TITLE OR INTEREST THE TOWN HAS IN THE CERTAIN PUBLIC UTILITY AND

DRAINAGE EASEMENT LOCATED AT THE REAR PROPERTY LINE OF PLAT 111, BLOCK 2, LOT 6 (16441 EAST HEATHER DRIVE), AS RECORDED IN BOOK 150, PAGE 12, RECORDS OF MARICOPA COUNTY, ARIZONA. EA2015-13.

AGENDA ITEM #4 - CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY PHILIP RODAKIS, OWNER/AGENT OF EAGLES NEST BISTRO LLC, DBA EAGLES NEST BISTRO & WINE BAR, LOCATED AT 9800 N. SUMMER HILL BOULEVARD, #1, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

Councilmember Yates **MOVED** to approve the consent agenda as presented and Councilmember Brown **SECONDED** the motion.

A roll call vote was taken with the following results:

Mayor Linda Kavanagh	Aye
Councilmember Dennis Brown	Aye
Councilmember Nick DePorter	Absent
Councilmember Cecil Yates	Aye
Councilmember Cassie Hansen	Aye
Councilmember Alan Magazine	Aye
Vice Mayor Henry Leger	Aye

The motion **CARRIED UNANIMOUSLY** by those present (6-0).

REGULAR AGENDA

AGENDA ITEM #5 - CONSIDERATION OF A LIQUOR LICENSE APPLICATION SUBMITTED BY CHRISTINE HOPE ZIMMERMAN, OWNER/AGENT OF JAZON LLC, DBA MONROE'S BAR AND GRILL, LOCATED AT 13014 NORTH SAGUARO BOULEVARD, #101, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

Town Manager Grady Miller addressed the Council relative to this agenda item and explained that all liquor license applications for establishments in Town come before the Council for their recommendation which is then forwarded on to the State Department of Liquor Licenses & Control. He said that the applicants were present and staff is willing to respond to any questions from the Council regarding this application and the information contained in the Council's packets.

In response to a request from Mayor Kavanagh, Maricopa County Sheriff Captain David Letourneau came forward and Vice Mayor Leger stated that he noticed in going through the application that law enforcement documents, signed by Captain Letourneau, indicated that they were approving the application "with concerns." He requested that the Captain address those concerns.

Captain Letourneau explained that the concerns are continued from the first application that went through – noting that with the current application before them the department does not have any concerns, the new owners are listed and the new LLC is listed so they are okay with that document but they just weren't sure with the process in the past if they can just "turn a blind eye" to the issues that were brought up before (the first two applications that were presented).

Mayor Kavanagh requested that the Captain be a little more specific and he stated that the first application was not filled out correctly and contained issues that the department questioned the owners about including past arrests, the box was checked no, but upon conducting a background check, the department found that there were arrests and issues of ownership and liquor law violations at their meeting. He added that he could go into greater depth if the Council so desires. He noted that because of the department's concerns, the owner withdrew the first application and reapplied a second time and the department had issues with that application as well and they were allowed to withdraw their application again and now the new application before the Council is better. He advised that the owners check out, they are good owners; however, one of the owners is still the original owner that applied and filled out the initial

application. He further stated that they just wanted the Council to be made aware of these issues and give them the opportunity to pose whatever questions they might have.

Councilmember Magazine asked how many owners there are and Captain Letourneau replied that there are four on the current application. Councilmember Magazine asked what the Council's options are and the Captain responded that the Council can approve the application or deny it.

Councilmember Magazine stated that he thought there was also a conditional approval and Captain Letourneau advised that they just made note on the application before them that the department was approving the new application but had concerns about the process in the past.

Mayor Kavanagh pointed out that some of the original issues dealt with distributors and employees and asked the Captain to elaborate on that somewhat.

Captain Letourneau reported that there were several liquor law violations and added that the department conducts its own interviews and looks into it but they also are privy to some things that the Liquor Board deals with so they know there were liquor violations during the process when they had a temporary license (discovered by both MCSO and the State Liquor Board). He pointed out that such violations could include someone working on site and drinking when they are supposed to be working).

Mayor Kavanagh asked whether they know if any of the individuals listed on the actual license are going to be managing the business -- who is the Manager?

Captain Letourneau responded that on the current application Christine Zimmerman is the listed main owner and she will be working and managing the business on practically a full-time basis. He said he believes it will be open five days a week and she had told the Captain that she will be there four days a week.

The Mayor noted that someone else was listed who was a less than 10% owner and asked about that individual and the Captain reported that the person is Eric Zimmerman, the original applicant, and he is Ms. Zimmerman's father, one of the owners and is listed as the chef for the restaurant. He confirmed that this is the same restaurant that the Council denied a license for previously but reiterated that there are now different owners (originally it was Eric Zimmerman and his wife Penny Zimmerman and Penny Zimmerman is no longer listed, Christine Zimmerman is, and the other two are Paul Norton and Jackie Gambill.

Mayor Kavanagh commented that what she is confused about is she knows the second application went to the Liquor Board and asked whether the Captain knew why the Board did not let that application go through.

Captain Letourneau advised that the department spoke to the Board about their concerns regarding the second application (calls for service -- people approached the Sheriff's office either by calling them or going to their walk-up window down the hall regarding the fact that employees working at the restaurant were not being paid, there were issues and calls for service to the applicant's house that set off bells and whistles for the department and they voiced those to Mr. Zimmerman and the decision was made for them to withdraw the application and reapply, which they did).

The Mayor asked whether they know that these things with the distributors are no longer going on -- have they been spoken to? The Captain responded that the distributors are part of the liquor law violations that occurred. He noted that there are only six distributors in the State of Arizona that alcohol can be purchased from and that didn't happen in the past so they made the applicants aware of that -- those issues were brought up and discussed -- and that is where the decision came from for the Zimmerman's to withdraw the application and reapply at a later date.

Councilmember Brown asked Town Attorney Andrew McGuire what it would take to cancel the liquor license if the violations started to happen again and Mr. McGuire advised that the Council's role in this type of license is advisory -- they are required by State law to give a yes or no to any application that comes through. He said if there is a revocation proceeding then the Council would also be involved in that but for the most part the Liquor Board will control whether the license stays in place or not. He pointed out that the Town can ask for revocation at a later date

and if there are continuing violations, the Sheriff's Department will be well aware of them and bring that information to the attention of the Council and the Liquor Board.

Mayor Kavanagh asked how much weight the Liquor Board puts on the Council's recommendation and Mr. McGuire stated that he would not want to speculate on that but he can tell the Council that in his past dealings with the Board, he found that they did not give great weight to a "No" from a Council unless it is supported by substantial evidence. He further stated that if there is a recommendation for denial from a Town Council, they will expect the Council to appear before them with their attorney and provide the reasons for that recommendation.

Councilmember Yates asked with regard to the nature of the previous violations, whether there were under age servers in the establishment and the Captain replied, yes, that is one of the allegations from a former employee who went to the Sheriff's office. Councilmember Yates asked whether under-age drinking took place and he responded that he doesn't recall anything like that being reported. Councilmember Yates also asked whether there were untaxed bottles of alcohol being sold and Captain Letourneau advised that there were.

Mayor Kavanagh stated that they will now hear from the applicant and Town Clerk Bevelyn Bender advised that there are two applicants, Jackie Gambill and Christine Zimmerman.

Ms. Gambill and Ms. Zimmerman addressed the Council and Ms. Gambill informed the Council that she and her husband have lived in Fountain Hills since 1989 and she has owned a company in Town for 19 years. She stated that they were approached about Monroe's because there were some problems and they were looking for new applicants to come in. She said that her husband is a retired Executive Posse member with the Deputy Sheriff's Office and advised that with the new ownership she feels extremely comfortable that the restaurant can be successful. She pointed out that there have been three or four restaurants at that location and they have all failed. She noted that the location is beautiful that they went in and made some major renovations. She added that for New Year's Eve they had advertised for 100 reservations and they had a full house. She stated the opinion that if the Council gives them as new owners with good records a chance, they will be impressed.

Mayor Kavanagh commented that Ms. Zimmerman will be the full-time Manager and asked whether she will have another job. Ms. Zimmerman stated that all the days that the business is open she will be there managing it.

In response to a question from Councilmember Magazine, Ms. Zimmerman clarified that she was never on the original liquor license and added that her father, Eric Zimmerman, is a current owner and was a previous owner as well. Councilmember Magazine asked other than that relationship, whether Ms. Zimmerman has any other legal relationship with any other past owners and she responded no. Ms. Zimmerman commented that her father is on the liquor license application because he is a 9% owner; he is just the chef.

Councilmember Magazine stated that quite frankly he doesn't think that he can support this application. He noted that the previous owners were untruthful on a number of counts and they raised a lot of questions. He said that it is impossible for the Council to keep a close eye on an establishment like this. He added that he is just very concerned given the background and the fact one of the original owners is still involved and he questions that (if they really want to put their best foot forward moving ahead why have one of the previous owners as an owner when he was party to some of the untruths, etc.). He reiterated that he is really not inclined to approve this.

Ms. Gambill responded that she has run a company and is still running a company and Mr. Zimmerman is a 9% owner and his job is to be the chef. She added that there are three new owners with pristine records and asked if they are going to be judged because of the past because she wouldn't do that.

Councilmember Magazine replied yes and noted that he is not judging her, he is judging the reputation and the things that happened before with the untruthfulness and they still have one of the previous owners who was part of that on the license and owning part of the company, no matter what percentage that may be. He asked who all the previous owners were and was advised by Ms. Gambill just Penny and Eric Zimmerman. She confirmed that Penny Zimmerman has nothing to do with the business and does not have any ownership in it. She added that she doesn't think there were any faults against Eric.

Ms. Zimmerman commented that her mother will not have any say or ownership in the business whatsoever.

Vice Mayor Leger stated that there are three new owners including Ms. Gambill and asked who the other owners are. Ms. Gambill responded Paul Norton, Christine Zimmerman and Eric Zimmerman. He asked what roles the new owners will play in the company.

Ms. Gambill replied that they are there, especially Paul Norton who will be there four of five days a week. She said she is not there as much as he is but she is there whenever she can, she has another real job.

Vice Mayor Leger advised that if they are asking the Council to wipe the slate clean with respect to the businesses' previous history, he needs to have a sense of what has changed and what the role of the new ownership will be in order to help balance that out.

Ms. Gambill said they do have Paul Norton and reiterated her pristine 19 year record in Town. She assured the Vice Mayor that they are not going to break the rules because she is "Miss Goody Two Shoes."

Ms. Zimmerman referred to the previous comment made by the Captain regarding employees not getting paid and advised that with Ms. Gambill taking over, she will be doing the bookkeeping.

Ms. Gambill confirmed that Mr. Norton will play an active role in on-site management of the establishment. She stated that when she met with Mr. Allen and the Liquor License Board and the Deputy Sheriff, she told them that all of the employees were paid current. She reported that she owns a solar company and she has construction workers and if they are dismissed and want to go complain, there is nothing they can do about that. She added that the business was not on Quick Books and they were not set up professionally and they did go to an attorney and got all of the proper paperwork done. She further stated that they went to the bank and she is the only signer on the bank account, they are now set up on Quick Books and it will be run as a proper business.

Vice Mayor Leger commented that he finds this quite interesting in terms of latitude and asked what their latitude is -- they don't get involved in employee relations and whether a company pays their employees or not, they are interested primarily in what is on the application and from what he can see, everyone has approved the application, including law enforcement. He questioned whether they have the latitude to be engaging in discriminating against someone because of an employee relations issue and so forth. He added that the past history stuff seems to be more subjective in terms of making a decision based on the criteria for the application. He said he certainly doesn't condone what has happened in the past but he is looking at this in terms of their latitude.

Ms. Gambill advised that she doesn't know of anything they could do more professionally.

Mr. McGuire responded that the question raised by the Vice Mayor is a good one because of Council's struggle with liquor licenses on a regular basis and said their latitude is really a fitness question -- do they believe the applicant is appropriate for serving alcohol in Town? He added that if there are reasons that they think not, then those reasons go before the Liquor Board and they weigh them appropriately. He pointed out that the Liquor Board has all of the discretion and the Council has an opinion. He said that in 21 years of representing cities and towns, he has seen a denial once.

Mayor Kavanagh asked if there was a reason why Eric Zimmerman is a 9% owner and commented on the fact that it is an odd ownership percentage.

Captain Letourneau replied that he is sure there is a reason and at 9% the applicant does not have to disclose as much in the application as the higher percentage owners do.

The Mayor asked exactly what that means and Captain Letourneau explained that the Department did do background checks on the original application because there were only two listed owners and there were issues on that check and that was part of the reason why during the interview they discussed those issues with Mr. Zimmerman. He noted that that was why the Sheriff's Department decided to deny the application.

Mayor Kavanagh advised that she would feel more comfortable if Mr. Zimmerman was not on the application.

Councilmember Magazine referred to the violations that took place in the past, serving underage and lying about a police record and things like that, and asked Captain Letourneau whether he can give the Council any assurance as to how the operation will be monitored.

Captain Letourneau responded that it is difficult to constantly monitor an establishment like that. He added that they can randomly do checks like they do with other establishments and the Liquor Board can do random checks as well, as they have in the past but they can't "babysit it" -- they are too busy but they would and can do random checks in the future. He noted that they did random checks during the process and that was part of the reason why the original applications were denied. He said if they just look at this application as they should, the new one, the department recommended approval with concerns. He stated that Mr. McGuire touched on it -- no matter what the Council does or how they vote, the ultimate decision will be made by the Liquor Board.

Councilmember Magazine advised that he is very much on the fence and said that the applicant is very earnest but he is concerned that one of the original owners is still involved, no matter how low the percentage of ownership, that doesn't make any difference to him. He pointed out that Mr. Zimmerman was part and parcel of the problem so he has to decide in his own mind whether it is worth taking the risk.

Councilmember Yates commented that it really is not the Council's job to watch them per se, other than to react to any kind of violation or complaint and the Arizona Liquor Board is a fairly active group -- they regulate this fairly actively -- and if there is any kind of report he believes they are required by law to conduct an investigation. He noted that there is an entity already set up to make sure that businesses follow the liquor laws and that is the State Liquor Board.

Mr. McGuire stated that it is usually a combination between the law enforcement agency that is on the ground wherever the establishment is located and the Liquor Board investigator.

Captain Letourneau said that Councilmember Yates' description is accurate, however, they would investigate calls for service like most law enforcement agencies and other government entities -- right now manpower shortages dictate that. He said that they have been very good coming up in 2015 to address those issues as they got calls for service but they ask the department for help because they have one individual dedicated to the Town of Fountain Hills (he can bring help but there is only one guy dedicated to this area who covers all of the establishments that sell liquor).

Councilmember Hansen advised that what she is hearing tonight is that the new owners have made a significant, good-faith effort to clean up a not so good situation. She added that she is having difficulty penalizing them through the Council's recommendation because of the effort they have put forth. She further stated that because of the amount of investment that they have put into it, it behooves them to do their best and be as diligent as possible to make sure that those things do not reoccur. She said since it is ultimately up to the Liquor Board, the Council's action this evening will only be a recommendation, so as Captain Letourneau came forward with a recommendation of approval with concerns, she questioned whether the Council could send a similar recommendation of approval with concerns to the Liquor Board.

Mr. McGuire stated that it would be "duly noted."

Councilmember Brown commented that he doesn't know if they can make a judgment on the past owners entirely. He pointed out that it is a business in Town that is trying to survive and if there are going to be problems they will crop up regardless and if alcohol is involved, more than likely it will be sooner rather than later. He added that he clearly understands the concerns that have been expressed about the past but he personally feels that they should give them a clean shot, a clean opportunity and see how it shakes out.

Captain Letourneau noted that part of the process that MCSO goes through prior to forwarding a recommendation on applications to the Council includes conducting an interview and they did interview all of the new owners. He said that they wanted to make sure that the new owners knew the past and knew the issues and they wanted to know what they would do if it happened in the future -- how they would handle similar problems. He reported that the answers were good. He added that they also wanted to find out if they knew that as the new owners if a violation occurs they will be the ones who will receive the tickets and they understand that and accept that responsibility. He said that this evening he has responded to questions but has not gotten into specifics but with the applicants he got into specifics and they

understand what could happen -- large fines, tickets, possible jail terms for certain offenses. He stated that they all said that they understand the ramifications should the problems start up again in the future.

Councilmember Magazine asked whether the application would come before the Council on an annual basis for renewal and Mr. McGuire advised that the only time the Council will see a liquor license come before them for an establishment is if it is a transfer, a new application or if there is some reason the Liquor Board is looking to revoke the license.

Councilmember Magazine commented that first he indicated that he was not inclined to approve the license, then he was on the fence and what has tipped him now is that he has a lot of confidence in the Captain and if he thinks it should be approved and went through that kind of due diligence, who is he to say it can't be done. He said that he will support the request.

Councilmember Brown **MOVED** to recommend approval of the liquor license application submitted by Christine Hope Zimmerman, owner of Jazon, LLC DBA Monroe's Bar and Grill, located at 13014 N. Saguro Boulevard, #101, Fountain Hills and Councilmember Hansen **SECONDED** the motion.

There were no additional requests to speak on this agenda item.

The motion **CARRIED UNANIMOUSLY** by those present (6-0).

Mayor Kavanagh thanked the applicants for attending the meeting and said they appreciate them answering all of the questions. She added that they wish them good luck and hope that the restaurant is successful.

AGENDA ITEM #6 - CONSIDERATION OF ACCEPTING A SCULPTURE OF PRESIDENT FRANKLIN ROOSEVELT TITLED, "STRENGTH TO OUR PEOPLE," FOR PLACEMENT IN FOUNTAIN PARK.

Town Manager Grady Miller informed the Council that the two following items are being recommended by the Public Art Committee for acceptance and placement.

Community Services Director Mark Mayer addressed the Council relative to this agenda item and advised that this item is a bronze sculpture of President Franklin Roosevelt titled, "Strength to our People" and it is being requested that its placement be in Fountain Park next to the pieces that are already there. He noted that it was done by Utah artist Matt Glenn and was purchased at a price of \$44,900. He referred to site map which showed the proposed location of the sculpture. He said that staff supports the recommendation and members of the Public Art Committee are present to respond to any questions from the Council.

In response to a question from Mayor Kavanagh relative to financing, Mr. Mayer said that this is going to be a public fundraising effort and pointed out that similar past efforts have been very successful. He added that the cost of the sculpture and the base would be included in the fundraising effort.

Vice Mayor Leger asked if there was going to be a plaque and Mr. Mayer replied that he has not heard anything about a plaque and he deferred to the members of the Public Art Committee who confirmed that there will be a plaque.

Sandi Thompson, President of the Public Art Committee, came forward and stated that she believes there was talk about having a plaque. She assured the Council that they will see and approve the plaque before anything is put up.

Town Clerk Bevelyn Bender advised that former Councilmember Ginny Dickey wishes to speak on this item and she received two cards in support of this item from individuals who did not wish to speak.

Ginny Dickey addressed the Council and thanked them for accepting this piece and the placement of it in Fountain Park. She asked that when they select the quotes for the plaque that they consider including the following famous one, "Let me assert my firm belief that the only thing we have to fear is fear itself. Nameless unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance. In every dark hour of our national life, a leadership of frankness and vigor has met with the understanding and support of the people themselves, which is essential to victory. I am convinced that you will again give that support to leadership in these critical days." She expressed the opinion

that this is particularly appropriate at this time and the quote illustrates his leadership and bravery. She added that they do appreciate the efforts of Marty Brown and all of the people who have contributed so far. She said this will be a very meaningful addition and she requested the Council's support on this item.

Mayor Kavanagh thanked Ms. Dickey for her comments.

Councilmember Magazine advised that his friend Jerry Miles has been asked many times why there are only Republican presidents in the collection and his response was always, "As soon as the Democrats come up with the money we will put up a Democratic president." He added that he doesn't want to ruin Mr. Miles's reputation but he has heard through the grapevine that he has made a significant contribution to this cause. He further stated that his wife is involved in this and he knows that they have already raised a significant amount of money for this so it will not be a problem.

Councilmember Magazine **MOVED** to approve the acceptance and placement of this piece and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM, #7 - CONSIDERATION OF ACCEPTING THREE DONATED SCULPTURES TITLED, "SKY TOTEM," "ASCENDO," AND "INTERACTIVE SUN GLASSES," FOR PLACEMENT ON AVENUE OF THE FOUNTAINS.

Mr. Mayer also addressed the Council relative to this agenda item and noted that the Council is being asked to accept three donated sculptures titled, "Sky Totem," "Ascendo," and "Interactive Sun Glasses," for placement on Avenue of the Fountains. He said that the first bronze piece is titled "Sky Totem" and has an acquisition price of \$40,000 and an insured value of \$65,000; the second piece titled, "Ascendo" is an aluminum sculpture with an acquisition price of \$19,200 and an insured value of \$32,000 and the third piece titled, "Interactive Sun Glasses," is a stainless steel piece with an acquisition cost and insured value of \$18,500. He added that they would be placed in The Plaza and referred to a sheet showing the proposed locations. He noted that this would fill all but one spot of available art nodes on The Plaza. He indicated his willingness to respond to any questions and said that staff is recommending approval.

In response to a question from the Mayor, Mr. Mayer explained that the financing for these pieces would come through Bart Shea of Shea Connely Development, LLC Construction as part of the 1% art requirements for development.

Councilmember Brown **MOVED** to approve the art donations and the locations of the three pieces as presented and Councilmember Magazine **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #8 - CONSIDERATION OF RESOLUTION 2016-01, ESTABLISHING THE SISTER CITIES ADVISORY COMMISSION AND ADOPTING BYLAWS FOR ITS GOVERNANCE.

Town Manager Grady Miller addressed the Council relative to this agenda item and requested that this item be tabled to a later date.

Councilmember Magazine **MOVED** to table this agenda item to a later date as requested and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #9 - DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO ANY ITEM INCLUDED IN THE LEAGUE OF ARIZONA CITIES AND TOWNS WEEKLY LEGISLATIVE BULLETIN OR RELATING TO ANY ACTION PROPOSED OR PENDING BEFORE THE STATE LEGISLATURE.

Mayor Kavanagh commented that she has forwarded copies of HB 2026 to all of the members of the Council.

Mr. Miller addressed the Council relative to this agenda item and said that the Council may recall that last year the Town was tracking and following a bill that was filed by Representative Mitchell that had to do with a residential rental tax. He reported that a State-wide residential rental tax generates about \$83 to \$84 million a year and the Town's take on that is about \$165,000 if a bill like this were to be adopted and signed into law. He advised that the Mayor was very passionate about this last year and has some insight that she would like to share with everyone.

Mayor Kavanagh advised that she was passionately against this bill and apparently Representative Mitchell feels that he can come in the back door now and just get Fountain Hills a little bit later. She stated that she believes his move to just say that it is just going to pertain to populations of 100,000 or more is an attempt not only to first get his foot in the door to do away with this rental tax but also to divide the cities and towns. She reported that last time they were all united -- the League led them in the fight against this -- but what he is trying to do now is divide everyone. She pointed out that they tried the same thing with the TPT (Transaction Privilege Tax), tried to get the larger cities that were going to benefit to go against the smaller cities and towns that would not, but it didn't work. She said the larger cities hung in there and supported them because they knew how detrimental it would have been to the smaller municipalities. She stated that she is hoping that they will get behind this and know that we are helping them just as they assisted the Town with the TPT and we may need their help again in the future. She added that she strongly believes that if he gets this passed, and right now he has no other signers, he is the only sponsor, that then he will go after the smaller cities. She reiterated that she really would like the Town to oppose this and said she would actively work to oppose it if everyone is on board with proceeding in that manner.

Vice Mayor Leger advised that he certainly supports whatever initiative they can put forward to push back on this.

The Mayor commented that they will probably fight through the League and spend some time down there doing public testimony if it gets to that point.

Mr. Miller stated that procedurally, as they start getting into the Legislative Session, all of the members of the Council will be receiving the bulletins and if they see anything that is of interest to them or something they feel would be harmful to the Town, please let staff know so that they can conduct research on them and be ready to discuss them at the next meeting.

Vice Mayor Leger referred to HB 2024 and advised that it is his understanding that there is possibly sponsorship there. He commented that the only thing he knows about it is an abstract that he has written so he really can't speak to it. He requested that staff track this piece of legislation and provide input to the Council at a future meeting so they can learn more about it. (It has to do with guns and is extremely complex.)

Councilmember Magazine asked whether they know if there is any intent to try the bill again that would cost the Town a great deal of money for metal detectors, etc.

Mr. McGuire stated that he hasn't seen it in the early bills. He added that the only one that is a bit of a resurrection from last year aside from the rental tax back door issue is the Sovereign Immunity Bill, which is actually bigger than guns and is a statement of the State's prohibition against the municipalities for anything having to do with Executive Orders, Supreme Court opinions unless Congress says it must be adopted into law, etc. He pointed out that it is a pretty broad brush at the subject and staff will be happy to track it.

Mayor Kavanagh requested that the Council receive some information on that for the next meeting and encouraged the members of the Council to let staff know in advance if there are some bills they want to discuss.

AGENDA ITEM #10 - COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER.

Items listed below are related only to the propriety of (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council.

- i) None.

AGENDA ITEM #11 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS AND THE TOWN MANAGER.

Mayor Kavanagh advised that the East Valley Mayor's Luncheon was held today and said that they discussed several issues related to their area, including some proposed Legislative bills. She noted that attending the luncheon was also President Delbert Ray of the Salt River Pima-Maricopa Indian Community. She advised that he provided an update on the Tohono Glendale Casino and issues related to it. She added that their biggest concern right now is the proliferation of casinos in the unincorporated parts of the State now that the Glendale casino has been allowed to operate. She commented that this is important to all of them -- what they want their state to eventually look like -- like it does now or more like Las Vegas. She stated that she doesn't think any of them moved here for a Las Vegas atmosphere. She said that one of the questions that she did ask the expert who was speaking on this was whether they know of any other land that the Tohonos have bought under their companies, or other LLCs. She reported that they are trying to track that but stated that honestly, they have no idea so they could come back and put a casino somewhere else in another unincorporated area. She advised that Senators McCain and Flake are helping the tribes and Trent Franks is helping as well.

AGENDA ITEM #12 - ADJOURNMENT

Councilmember Brown **MOVED** to adjourn the meeting and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0). The meeting adjourned at 7:35 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Linda M. Kavanagh, Mayor

ATTEST AND
PREPARED BY:

Bevelyn Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 7th day of January, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 21ST day of January, 2016.

Bevelyn Bender, Town Clerk